

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

EMMA E. DUBOIS, Individually and §
As Representative of the Estate of §
Dora Miller DuBois (Deceased), §
Plaintiff, §
§
v. § CIVIL ACTION NO. H-13-0252
§
BRENDA DUBOIS BRADLEY, §
et al., §
Defendants. §

MEMORANDUM AND ORDER

Pursuant to 28 U.S.C. § 636(b)(1)(B), this case was referred to United States Magistrate Judge George C. Hanks, Jr. On June 10, 2013, Magistrate Judge Hanks issued a Memorandum and Recommendation [Doc. #49], recommending that Plaintiff and Movant Emma E. DuBois's ("Movant") case be dismissed, without prejudice, for lack of subject matter jurisdiction. Pending before this Court are Movant's Objections ("Objections") [Doc. #50], Movant's Motion for Leave to Amend Original Complaint [Doc. # 51], and Respondents Norma Diaz and Debra Mardis's Response to Motion for Leave to Amend Original Complaint [Doc. # 52].

Respondent's Objections are deemed timely filed. *See* 28 U.S.C. § 636(b)(1). The Court has reviewed the Memorandum and Recommendation, as well as the Objections, and made a *de novo* review of those portions of the report or specified

proposed findings or recommendations to which objection is made. *See FED. R. CIV. P. 72(b); 28 U.S.C. § 636(b)(1); McLeod, Alexander, Powel & Apffel, P.C. v. Quarles, 925 F.2d 853, 855 (5th Cir. 1991); Battle v. U.S. Parole Comm'n, 834 F.2d 419, 421 (5th Cir. 1987).*¹ The Court agrees with the rulings in the Memorandum and Recommendation and concludes it should be adopted as this Court's Memorandum and Order.

Further, for the reasons set forth in the Memorandum and Recommendation [Doc. #49], the Court lacks subject matter jurisdiction over the claims Movant asserts. Accordingly, Movant's request for leave to amend her complaint is futile and is denied.

It is therefore

ORDERED that Movant's Objections to the Memorandum and Recommendation [Doc. # 50] are **OVERRULED**. It is further

ORDERED that the **Magistrate Judge's Memorandum and Recommendation** is hereby **ADOPTED** as the Court's Memorandum and Order. It is further

¹"It is reasonable to place upon the parties the duty to pinpoint those portions of the magistrate's report that the district court must specially consider." *Nettles v. Wainwright*, 677 F.2d 404, 410 (5th Cir. 1982), *overruled on other grounds by Douglass v. United States Auto. Ass'n*, 79 F.3d 1415 (5th Cir. 1996). "Parties filing objections must specifically identify those findings objected to. Frivolous, conclusive or general objections need not be considered by the district court." *Id.* at 410 n.8; *accord United States v. Carrillo-Morales*, 27 F.3d 1054, 1061 (5th Cir. 1994).

ORDERED that Movant's Motion for Leave to Amend Original Complaint [Doc. # 51] is **DENIED**. It is further

ORDERED that the case is **DISMISSED without prejudice**.

SIGNED at Houston, Texas, this 19th of July, 2013.



Nancy F. Atlas
Nancy F. Atlas
United States District Judge